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| TO: | FROM: <i>[Signature]</i> |
| Examiner Dinh, Tien Quang | Cindy H. Kwacala (Reg. No. 47,667) |
| COMPANY: | DATE: |
| USPTO | TUESDAY, MARCH 22, 2005 |
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| RE: | REFERENCE NUMBER: |
| Response to Restriction Requirement | 10/789,827 |
| NOTES/COMMENTS: | |

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Appl. No. 10/789,827
Response to Restriction Requirement

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UTILITY PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-----------------------|-------------------------|-------------------|------------------|
| In re application of: | Jeffrey M. Hein, et al. | Group Art Unit: | 3644 |
| Serial No.: | 10/789,827 | Examiner: | Dinh, Tien Quang |
| Filed: | February 27, 2004 | Confirmation No.: | 8247 |

For: DUAL ACTION INLET DOOR AND METHOD FOR USE THEREOF

Docket No.: H0001402--3014

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

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Cindy H. Kwacala, Reg. No. 47,667

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of a Restriction Requirement mailed February 24, 2005, in which seven allegedly distinct inventions were identified as follows:

Species A (figures 1-3);

Species B (figure 4);

Species C (figure 5);

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Species D (figure 6);

Species E (figure 7);

Species F (figure 8); and

Species G (figure 9).

In response, Applicants, through their representatives and attorneys, hereby elect Species C (e.g., Figure 5) with traverse. It is submitted that at least Claims 1-5, 7, and 13-16 read on FIG. 5. This election is made with traverse for at least the following reasons.

Initially, Applicant wishes to point out that this traversal is not an admission that any or all of the cited species are not independent, nor that any or all of the cited species are not patentably distinct from one another. However, Applicant does submit that the independent and patentably distinct species are related under the particular disclosure. Where, as here, "inventions as disclosed and claimed are both (A) species under a claimed genus and (B) related, then the question of restriction must be determined by both the practice applicable to the election of species and the practice applicable to other types of restrictions such as those covered in MPEP § 806.05 – 806.05(i)." See M.P.E.P. § 806.04(b). In accordance with this practice, when several patentably distinct inventions are disclosed as being related, the Examiner must establish reasons for insisting upon restriction. In particular, reasons for insisting upon restriction must be shown by an explanation of: (1) separate classification; (2) separate status in the art when classifiable together; or (3) a different field of search. See M.P.E.P. § 808-808.02. Applicants submit that such an explanation has not been provided, and further submit that one cannot be so provided.

Furthermore, it is submitted that all of the independent claims and the dependent claims, are written sufficiently broad to cover at least the seven species cited by the Examiner.

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In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the Election Requirement set forth in the above-noted Election/Restriction Requirement, and further request examination of all of the presently pending claims.

Respectfully submitted,

INGRASSIA FISHER & LORENZ

Dated: 3/22, 2005

By: 

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